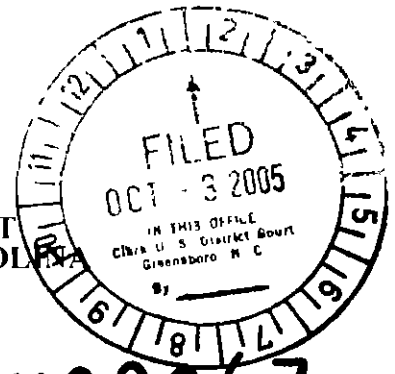


IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA



Alexander Obrian Williams,  
Petitioner,  
v  
United States of America,  
Respondent

1:05CV00867  
100CR287-1

**RECOMMENDATION AND ORDER  
OF UNITED STATES MAGISTRATE JUDGE**

Petitioner, a federal prisoner, has submitted a motion for reduction of sentence under 18 U S C § 3582(c)(2). This section authorizes the court to modify a term of imprisonment if the defendant's sentencing range has been subsequently lowered by an amendment to the Sentencing Guidelines by the Sentencing Commission. Petitioner fails to cite any amendment to the Sentencing Guidelines. He is instead relying on the recent Supreme Court cases regarding the proof and procedures to enhance sentences under the Guidelines. This is therefore not a proper section 3582(c)(2) motion. Considered as such a motion, it should be denied.

The relief petitioner seeks could only be granted in a motion to vacate, set aside, or correct sentence pursuant to 28 U S C § 2255. Considered as such a motion, this motion cannot be further processed because court records reveal that petitioner has previously attacked the same conviction and sentence in a previous section 2255 motion. [No 1:03CV32]. Consequently, petitioner must move in the Fourth Circuit Court of Appeals for an order authorizing this district court to consider the current motion. This is required by 28 U S C § 2255 and 28 U S C § 2244. See AO 243 (MDNC 3/97), Instructions, ¶ (4), which is enclosed. Because of this pleading failure, this particular motion should be filed and then dismissed.

**IT IS THEREFORE RECOMMENDED** that, considered as a motion for reduction of sentence under 18 U S C § 3582(c)(2), this motion be denied

**IT IS FURTHER RECOMMENDED** that, considered as a motion to vacate sentence under 28 U S C § 2255, this action be filed and then dismissed sua sponte for failure to obtain certification for this § 2255 application by filing a Motion for Authorization in the court of appeals as required by 28 U S C §§ 2255 and 2244 and Fourth Circuit Local Rule 22(d)

**IT IS THEREFORE ORDERED** that the clerk send petitioner a copy of this recommendation, instruction forms for filing Section 2255 motions in this Court and Motions for Authorization in the court of appeals, and four copies of Section 2255 motion forms (more copies will be sent on request) Petitioner should keep the original and two copies of the Section 2255 motion which can be submitted in this court if petitioner obtains approval from the Fourth Circuit



Wallace W. Dixon, U.S. Magistrate Judge

October 3, 2005